

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JOHN MADIGAN,
Plaintiff

v.

GENERAL STAR INDEMNITY CO.,
Defendant

CIVIL ACTION NO.: 04-CV-12665-DPW

PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

John Madigan hereby moves for summary judgment determining the applicability of a liability policy issued by General Star Indemnity Co. to Industrial Rents, LLC, against which John Madigan had maintained a tort claim for personal injuries. On August 31, 2001, Mr. Madigan had been working on a roof of a building owned by Industrial Rents, LLC. He was employed by an independent contractor, Dion Bowyer. The roof under him was rotted, gave way and caused Mr. Madigan to plummet 20 feet or more, sustaining serious injuries. He brought a negligence claim in state court against Industrial Rents, which carried liability insurance with General Star Indemnity Co. General Star refused to defend or indemnify Industrial Rents, relying upon an Independent Contractor's Exclusion in the policy. Mr. Madigan procured from Industrial Rents an assignment of rights against General Star, and brought the instant action.

For the reasons explained in the accompanying brief, the Court should determine that Mr. Madigan's underlying tort claim against Industrial Rents was not excluded from coverage under General Star's liability policy covering Industrial Rents.

Respectfully submitted
JOHN MADIGAN
By his attorney,

/s/ Michael C. Najjar
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